IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**WRIT PETITION NO. 335 OF 2006**

Amway India Enterprises & Ors. ...Petitioners

**V/s.**

State of Maharashtra & Ors. ... Respondents.

Mr. Shyam Mehta instructed by M/s. Crawford Bayley & Co. for the Petitioners

Mr. Amjad Sayyed, Assistant Government Pleader, for Respondents No. 1 to 5

Ms. Naveena Kumari for Respondent No. 6.

**CORAM: KSHITIJ R. VYAS, C.J., &**
**S.C. DHARMADHIKARI, J.**
**DATE: FEBRUARY 27, 2006.**

**P.C.:-**

1. It is the grievance of the petitioners that the respondents have issued licence to petitioner No. 2 to manufacture food/dietary supplements under the Prevention of Food Adulteration Act, 1954; and the respondents, on the basis of the show-cause notice dated 9th March, 2005 and without passing any order thereafter, have taken stern action by seizing all manufactured items like vitamin/mineral/enzyme preparations

in the form of tablets/capsules/liquid orals and other dosage form.

2. The learned counsel for the petitioners contended that the show-cause notices dated 7th October, 2005 have been issued to the petitioners to show cause as to why action should not be taken against them for manufacturing and selling Nutrilite products as 'food', instead of as 'a drug', and why they should not be prosecuted for violation of the provisions of the Drugs and Cosmetics Act, 1940.

3. The premises of petitioner No. 1 at Bombay and Pune were raided by respondents No. 4 and 5, respectively, and several bottles of Nutrilite Iron Folic were seized under the purported provisions of the Drugs and Cosmetics Act, 1940; and therefore, the petitioners have filed the present petition to challenge the illegal and *mala fide* action on the part of respondent Nos. 2 to 5.

4. The learned Assistant Government Pleader appearing for respondents No. 1 to 5 stated that the Joint Commissioner (H.Q.) & Drugs Controller, Food and Drug Administration, Maharashtra State, Mumbai, would give hearings in all the

show-cause notices issued against the petitioners and would, after considering the submissions that may be advanced before him, pass reasoned order within four weeks from today. Order accordingly. It will be open for the petitioners to file written submissions and/or additional written submissions over and above the replies to the show-cause notices already filed.

5. With the above directions, this petition is disposed of.

**CHIEF JUSTICE**

**S.C.DHARMADHIKARI,J.**